UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF TEXAS

DAN CUMBIE,	§	
	§	**Case No.:**
Plaintiff**,**	§	
	§	**COMPLAINT AND DEMAND**
v.	§	**FOR JURY TRIAL**
	§	
NATIONWIDE RECOVERY	§	**(Unlawful Debt Collections**
SYSTEMS,	§	**Practices)**
	§	
Defendant.	§	

COMPLAINT

DAN CUMBIE ("Plaintiff"), by and through his attorneys, Kimmel & Silverman, P.C., alleges the following against NATIONWIDE RECOVERY SERVICES ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq*. ("FDCPA") and the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq*. ("TCPA").

JURISDICTION AND VENUE

2. This Court's jurisdiction arises under 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before "any appropriate United

States district court without regard to the amount in controversy," and 28 U.S.C. § 1331, which grants this Court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant regularly conducts business in the State of Texas, therefore personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Sulphur Springs, Texas.

6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

7. In the alternative, Plaintiff is a person granted a cause of action under the FDCPA. See §1692 (k)(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Plaintiff is a "person" as that term is defined by 47 U.S.C. §153(39).

9. Defendant is a corporation with its principal place of business located at 501 Shelley Avenue, Suite 300, Tyler TX 75701.

10. Defendant is a "debt collector" as that term is defined by 15 U.S.C. §1692 a(6), and sought to collect a debt from Plaintiff.

11. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

12. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

13. Plaintiff has a cellular telephone.

14. Plaintiff has only used this phone as a cellular telephone.

15. In or around January 2017, Defendant began calling Plaintiff on his cellular telephone about a medical debt.

16. Defendant’s collectors called Plaintiff from telephone numbers including, but not limited to: (903) 630-8488. The undersigned has confirmed that this number belongs to Defendant.

17. Soon after the calls began, in or around February 2017, Defendant told Plaintiff to stop calling him.

18. Defendant ignored Plaintiff’s request and continued to call him.

19. Thereafter, in or around March 2017, Plaintiff reiterated this request through a submission on Defendant’s website.

20. Defendant again ignored Plaintiff's request and continued to call him.

21. Once Defendant was aware that its calls were unwanted any continued calls could have served no legal purpose, and could only have been placed for the purpose of harassing Plaintiff.

22. When placing calls to Plaintiff, Defendant used an automated telephone dialing system and/or a pre-recorded voice.

23. Plaintiff knew Defendant was using an automated telephone dialing system and/or a pre-recorded voice because the calls would begin with a pre-recorded message before the call would be transferred to a live caller.

COUNT I
DEFENDANT VIOLATED §§ 1692d and d(5) OF THE FDCPA

24. A debt collector violates §1692d by engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

25. A debt collector violates §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

26. Defendant violated these sections when it placed repeated and continuous harassing telephone calls to Plaintiff between January 2017 and March

2017, knowing its calls were unwanted, and continuing to call knowing its calls were unwanted.

COUNT II
DEFENDANT VIOLATED THE TCPA

27. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

28. Defendant initiated automated calls to Plaintiff using an automatic telephone dialing system.

29. Defendant's calls to Plaintiff were not made for emergency purposes.

30. Defendant's calls to Plaintiff after he revoked consent were not made with Plaintiff's prior express consent.

31. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

32. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

33. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and treble damages.

WHEREFORE, Plaintiff, DAN CUMBIE, respectfully prays for judgment as follows:

a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);

b. Statutory damages of $1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);

c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs, pursuant to 15 U.S.C. § 1693k(a)(3);

d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);

e. Statutory damages of $500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);

f. Treble damages of $1,500.00 per violative telephone call pursuant to 47 U.S.C. §227(b)(3);

g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);

h. Any other relief deemed fair and proper by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, DAN CUMBIE, demands a jury trial in this case.

Respectfully submitted,

Dated: May 24, 2017

/s/ Amy L. B. Ginsburg
Amy L. B. Ginsburg, Esq.
Kimmel & Silverman, P.C.
30 East Butler Pike
Ambler, Pennsylvania 19002
Phone: (215) 540-8888
Facsimile: (877) 788-2864
Email: aginsburg@creditlaw.com